

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS**

GALVESTON DIVISION

DIVISION 80 LLC,

Plaintiff,

v.

MERRICK GARLAND, in his official capacity as Attorney General of the United States, *et al,*

Defendants.

Civil Action No. 3:22-CV-00148

EMERGENCY UNOPPOSED MOTION TO AMEND SCHEDULING ORDER

Plaintiff Division 80, LLC (“Division 80”) files this Emergency Motion to Amend the Scheduling Order, ECF No. 76 (“Scheduling Order”). Defendants do not oppose this Emergency Motion.

As grounds thereof, Plaintiff states the following:

1. On September 15, 2022, the Court issued a Scheduling Order (ECF No. 76).

The Scheduling Order included the following deadlines:

<u>Deadline</u>	<u>Date</u>
Defendants File Administrative Record	October 14, 2022
Defendants File Response Pleading to Plaintiff’s Complaint	December 2, 2022
Plaintiff’s Motion for Summary Judgment	February 10, 2023
Defendants’ Cross-Motion for Summary Judgment and Opposition to Plaintiff’s Motion	March 10, 2023

Plaintiff's Reply in Support of Its Motion and Opposition to Defendants' Cross-Motion April 7, 2023

Defendants' Reply in Support of Cross-Motion May 5, 2023

2. Lead Counsel for Plaintiff ("Lead Counsel") has been unavailable because of a medical emergency that has hospitalized an immediate family member for the last three weeks.

3. Plaintiff's counsel conferred with lead counsel for Defendants regarding a two-week extension due to the circumstances surrounding Lead Counsel's family medical emergency and unavailability.

4. Defendants' lead counsel, after conferring with his clients, indicated that Defendants do not oppose the requested two-week extension.

5. Further, the parties agreed to ask this Honorable Court to amend the Scheduling Order by pushing all merits briefing deadlines back by two weeks:

<u>Deadline</u>	<u>Proposed Date</u>
Plaintiff's Motion for Summary Judgment	February 24, 2023
Defendants' Cross-Motion for Summary Judgment and Opposition to Plaintiff's Motion	March 24, 2023
Plaintiff's Reply in Support of Its Motion and Opposition to Defendants' Cross-Motion	April 21, 2023
Defendants' Reply in Support of Cross-Motion	May 19, 2023

6. Federal Rule of Civil Procedure 16(b)(4) provides that a schedule "may be modified only for good cause and with the judge's consent." Fed. R. Civ. P. 16(b)(4).

7. Given the recent, challenging medical emergency of Lead Counsel's immediate family member, there is good cause for the limited relief requested.

8. No party will be prejudiced by the limited requested relief.

WHEREFOR, Plaintiff respectfully requests that this Honorable Court grant this Emergency Unopposed Motion.

Respectfully submitted,

/s/ J. Christopher Amrhein, Jr.
Michael J. Sullivan (Lead)
Pro Hac Vice, MA Bar No. 487210
J. Christopher Amrhein, Jr.
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Counsel for Plaintiff Division 80 LLC

CERTIFICATE OF SERVICE

I certify that on February 9, 2023, the foregoing document was served, via the Court's CM/ECF Document Filing System, upon the registered CM/ECF users in this action.

/s/ J. Christopher Amrhein, Jr.
J. Christopher Amrhein, Jr.

CERTIFICATE OF CONFERENCE

I certify that on February 9, 2023, that counsel for Plaintiff conferred by phone and by email with counsel for Defendants in accordance with Local Rule 7.1. Counsel agree about the requested relief in this Emergency Unopposed Motion.

/s/ J. Christopher Amrhein, Jr.
J. Christopher Amrhein, Jr.